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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**EUGENE DIVISION**

**UNITED STATES OF AMERICA,**

**6:19-cv-00039-MA**

**Plaintiff,**

**v.**

**COMPLAINT**

**2721 NE Conser Road, Albany,  
Linn County, State and District of Oregon,  
Real Property with Buildings,  
Appurtenances, and Improvements, *in rem*,**

**Defendant.**

Plaintiff, United States of America, by Billy J. Williams, United States Attorney for the District of Oregon, and Amy E. Potter, Assistant United States Attorney, for its complaint *in rem* for forfeiture, alleges:

**I.**

This Court has subject matter jurisdiction, *in rem* jurisdiction, and venue pursuant to 21 U.S.C. § 881; 28 U.S.C. §§ 1345, 1355, 1356, and 1395; and 19 U.S.C. § 1610.

II.

Defendant, *in rem*, 2721 NE Conser Road, Albany, Linn County, State and District of Oregon, Real Property with Buildings, Appurtenances, and Improvements, (hereinafter known as “2721 NE Conser Road”) and more particularly described as:

Beginning at a point on the North boundary of Market Road #34, 30 feet North and 30.19 feet West of the Southeast corner of Tract 23, MILLERSBURG TEN ACRE TRACTS; thence West along North boundary of said Market Road 160 feet, more or less, to the Southeast corner of a tract of land conveyed to Richard Draper and Betty Draper by Deed recorded June 22, 1964, in Book 303, at Page 128, Records of Linn County, Oregon; thence North along Drapers’ East boundary line 272 feet; thence East and parallel with North boundary of said Market Road 160 feet more or less to West boundary line of a tract conveyed to Mabel Bowman by Deed recorded in Book 323, at Page 179, Records of Linn County, Oregon; thence South along Bowman’s West line 272 feet to the point of beginning. Except the West 10 feet of the South 20 feet thereof. ALSO EXCEPTING the West EIGHTY (80) FEET of the above described property.

Account: 44335

Map & Tax Lot: 10S03W20DD00300

is now and during the pendency of this action will be within the jurisdiction of this Court.

III.

Defendant, *in rem*, 2721 NE Conser Road, was used or intended to be used to facilitate the illegal distribution of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and 856(a)(2), and is forfeitable to the United States pursuant to the provisions of 21 U.S.C. § 881(a)(7), as more particularly set forth in the declaration of Andrew Hsia, Special Agent, Drug Enforcement Administration, marked as Exhibit A, attached and fully incorporated herein by this reference.

WHEREFORE, plaintiff, United States of America, prays that due process issue to enforce the forfeiture of defendant, *in rem*, 2721 NE Conser Road; that due notice be given to all

interested persons to appear and show cause why forfeiture of this defendant, *in rem*, should not be decreed; that due proceedings be had thereon; that this defendant be forfeited to the United States; that the plaintiff United States of America be awarded its costs and disbursements incurred in this action.

DATED: **January 9, 2019.**

Respectfully submitted,

BILLY J. WILLIAMS  
United States Attorney

s/ Amy E. Potter  
**AMY E. POTTER**  
Assistant United States Attorney

**VERIFICATION**

I, Andrew Hsia, declare under penalty of perjury, pursuant to the provisions of 28 U.S.C. Section 1746, that I am a Special Agent with the Drug Enforcement Administration and that the foregoing Complaint *in rem* for Forfeiture is made on the basis of information officially furnished and upon the basis of such information the Complaint *in rem* for Forfeiture is true as I verily believe.

s/ Andy Hsia  
**ANDREW HSIA**  
Special Agent  
Drug Enforcement Administration

**DECLARATION of ANDREW HSIA**

I, ANDREW HSIA, do hereby declare:

**BACKGROUND/EXPERIENCE**

1. I am a Special Agent (SA) with the United States Drug Enforcement Administration (DEA) currently assigned to the Eugene Resident Office. As such, I am empowered by Title 21, United States Code, Section 878 to make arrests and obtain and execute search warrants. My job assignment includes, but is not limited to, the investigation of violations of Title 21, United States Code, Sections 841(a)(1), 846, 843(b), and 856, which includes the detection, identification, and apprehension of those individuals involved in narcotics trafficking offenses.

**PURPOSE OF THIS DECLARATION**

2. This declaration is submitted in support of a complaint *in rem* seeking the forfeiture of real property, including the lot or tract of land and any appurtenances or improvements on that property, commonly known as 2721 NE Conser Road, City of Albany, County of Linn and State of Oregon (NE Conser Road) and further described as

Beginning at a point on the North boundary of Market Road #34, 30 feet North and 30.19 feet West of the Southeast corner of Tract 23, MILLERSBURG TEN ACRE TRACTS; thence West along North boundary of said Market Road 160 feet, more or less, to the Southeast corner of a tract of land conveyed to Richard Draper and Betty Draper by Deed recorded June 22, 1964, in Book 303, at Page 128, Records of Linn County, Oregon; thence North along Drapers' East boundary line 272 feet; thence East and parallel with North boundary of said Market Road 160 feet more or less to West boundary line of a tract conveyed to Mabel Bowman by Deed recorded in Book 323, at Page 179, Records of Linn County, Oregon; thence South along Bowman's West line 272 feet to the point of beginning. Except the West 10 feet of the South 20 feet thereof. ALSO EXCEPTING the West EIGHTY (80) FEET of the above described property.

Account: 44335

Map & Tax Lot: 10S03W20DD00300.

3. As set forth below, there is probable cause to believe and I do believe, that Mark D. McKibbin (McKibben) has committed violations of 21 U.S.C. §§ 841(a)(1) and 856(a)(2), the

distribution of controlled substances and maintaining a drug-involved premises. Specifically, I believe McKibbin facilitated the illegal distribution of methamphetamine from his residence, NE Conser Road, and maintained the residence for purposes of distributing methamphetamine since approximately April 2018. As such and as set forth below, there is probable cause to believe that the real property, including the lot or tract of land and any appurtenances or improvements on that property, located at 2721 NE Conser Road, City of Albany, County of Linn and State of Oregon, is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(7), because it is real property that was used or intended to be used to commit or facilitate the commission of a drug trafficking offense.

4. The real property located at NE Conser Road was transferred to McKibbin on or about June 14, 2017. Based on a Bargain and Sale Deed dated June 14, 2017, Steven L. McKibbin transferred Mark D. McKibbin the property at NE Conser Road for zero dollars. The deed was signed by Steven McKibbin as well as a public notary for the State of Oregon.

5. Based on evidence obtained in this investigation, including evidence obtained from a search warrant at the residence, investigative reports, and property title records, there is probable cause to believe, and I do believe, that beginning in 2018 and continuing to the present, McKibbin distributed methamphetamine from NE Conser Road on multiple occasions and altered the structure of NE Conser Road to secrete and conceal distribution quantities of controlled substances, specifically methamphetamine.

6. The information contained in this declaration is based on my personal knowledge, as well as information obtained from other law enforcement personnel, information obtained from financial property records, and cooperating witnesses. The information set forth here is provided solely for the purpose of establishing probable cause in support of the complaint *in rem* and

therefore, it does not include each and every fact that I or others have learned during the course of this investigation.

### **SUMMARY OF THE INVESTIGATION**

#### **Controlled Purchase of Methamphetamine on October 26, 2018**

7. The Linn Interagency Narcotics Enforcement Task Force (LINE) as well as the DEA, has been investigating Mark Dana McKibbin and others for trafficking methamphetamine in Oregon. A confidential source (CS) knew that McKibbin regularly stored drugs at his house and that s/he could buy methamphetamine from McKibbin at his residence.

8. At about 10:00 a.m. on October 26, 2018, investigators with LINE provided the CS with \$1,900 to purchase a half-pound of methamphetamine. The CS traveled to NE Conser Road. Inside of the residence, out of public view, the CS met with McKibbin. The CS said that McKibbin already had weighed out the pre-arranged half-pound of methamphetamine which was sitting on the kitchen table in the house.

9. After leaving McKibbin's residence, the CS provided the suspected methamphetamine to law enforcement. The substance weighed about 225.5 gross grams and field tested presumptive positive for methamphetamine.

#### **Controlled Purchase of Methamphetamine on November 2, 2018**

10. At about 10:30 a.m. on November 2, 2018, investigators with LINE provided the CS with \$1,900 to purchase another half-pound of methamphetamine. The CS again traveled to NE Conser Road. Once inside of the residence, the CS met McKibbin in the living room. The CS said that McKibbin already had weighed out the pre-arranged half-pound of methamphetamine.

11. After leaving NE Conser Road, the CS provided the suspected methamphetamine to law enforcement. The substance weighed about 229.2 gross grams and field tested presumptive positive for methamphetamine.

#### **Controlled Purchase of Methamphetamine on November 9, 2018**

12. The CS previously informed investigators with LINE that they could buy methamphetamine from McKibbin at NE Conser Road without prior notice. It was not unusual to show up at McKibbin's house to inquire about purchasing methamphetamine and then for McKibbin to sell whatever methamphetamine he had on-hand at his residence.

13. At about 10:00 a.m. on November 9, 2018, investigators with LINE provided the CS with \$1,900 to purchase half-pound of methamphetamine. The CS traveled to NE Conser Road. There, the CS contacted McKibbin and entered the residence. The CS said that McKibbin brought several pounds of methamphetamine from his bedroom area to the dining room. Once there, McKibbin used a large spoon to measure out half-pound of methamphetamine on the dining room table.

14. After leaving McKibbin's residence, the CS provided the suspected methamphetamine to law enforcement. The substance weighed about 223.8 gross grams and field tested presumptive positive for methamphetamine.

#### **Search Warrant on November 16, 2018 at McKibbin's Residence**

15. On November 16, 2018, investigators with LINE and the DEA served a State of Oregon search warrant on McKibbin's residence and found several plastic bags containing suspected methamphetamine as well as a larger stash that was located beneath a floorboard in a bedroom closet. During the physical search of the residence, DEA Agents located carpeting that had been pulled out from the wall in the closet. Upon further examination, agents located a cut-



out in the floorboards that led to a crawlspace underneath the house. There agents located an ammo can which contained a large amount of methamphetamine. The floorboards had been modified to allow access to the crawl space underneath the house where the methamphetamine was hidden. Based on the lack of disturbance farther into the crawl space, DEA Agents believed that the crawlspace was used specifically to conceal methamphetamine within reach of anyone accessing the modified floorboards. Based on the condition of the room in which the crawlspace was located, it was difficult to ascertain how long ago the floorboard modification was installed.

16. A sample of the methamphetamine found in the residence was field tested and came back presumptive positive for methamphetamine. In total, law enforcement found and seized about 553.6 grams of methamphetamine from McKibbin's residence during the service of the search warrant.

### **CONCLUSION**

17. Based on the foregoing, I have probable cause to believe and do believe that Mark Dana McKibbin possessed with the intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A)(viii).

18. As previously described, McKibbin conducted several drug transactions in NE Conser Road. McKibbin also appeared to have modified and utilized a modified portion of the property to conceal methamphetamine. As such, NE Conser Road is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(7), because it is real property that was used or intended to be used to commit or facilitate the commission of a drug trafficking offense

I declare under penalty of perjury that the foregoing is true and correct pursuant to  
28 U.S.C. §1746.

Executed this 9th day of January 2019.

s/ Andy Hsia

Andrew Hsia

Special Agent

Drug Enforcement Administration

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |  |                            |                            |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |  | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_